

WORKING DRAFT -- FOR DISCUSSION PURPOSES ONLY

Local Option Sales and Use Taxes for Transportation Act

LONG TITLE

General Description:

This bill

Highlighted Provisions:

This bill:

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Monies Appropriated in this Bill:

None

Other Special Clauses:

None

List of sections affected:

AMENDS:

REPEALS AND REENACTS:

59-12-2201

59-12-2202

59-12-2203

59-12-2204

59-12-2205

59-12-2206

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31 59-12-2207

32 59-12-2208

33 59-12-2209

34 59-12-2210

35 59-12-2211

36 59-12-2212

37 59-12-2213

38 59-12-2214

39 59-12-2215

40 59-12-2216

41 59-12-2217

42

43 Statutory text:

44 **Part 22. Local Option Sales and Use Taxes for Transportation Act**

45

46 **59-12-2201. Title.**

47

48 This part is known as the "Local Option Sales and Use Taxes for Transportation Act."

49

50 **59-12-2202. Definitions.**

51

52 As used in this part:

53 (1) "Airline" is as defined in Section 59-2-102.

54 (2) "Airport facility" is as defined in Section 59-12-602.

55 (3) "Annexation" means an annexation to:

56 (a) a county under Title 17, Chapter 2, Annexation to County; or

57 (b) a city or town under Title 10, Chapter 2, Part 4, Annexation.

58 (4) "Annexing area" means an area that is annexed into a county, city, or town.

59 (5) "Council of governments" is as defined in Subsection 72-2-117.5(1)(a).

60 (6) "Fixed guideway" is as defined in Section 59-12-102.

61 (7) "Local highway of regional significance" means

62 **[a highway that is:**

63 **(a) (i) a principal arterial highway as defined in Section 72-4-102.5; or**

64 **(ii) a minor arterial highway as defined in Section 72-4-102.5;**

65 **(b) included in a metropolitan planning organization's regional**
66 **transportation plan; and**

67 **(c) not a state highway. Utah Code Ann. § 59-12-1502(3)]**

68 **[a local highway that is a:**

69 **(a) principal arterial highway as defined in Section 72-4-102.5;**

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(b) minor arterial highway as defined in Section 72-4-102.5;

(c) major collector highway as defined in Section 72-4-102.5; or

(d) minor collector road as defined in Section 72-4-102.5. Utah Code Ann. § 59-12-1902(6)]

(8) "Major collector highway" is as defined in Section 72-4-102.5.

(9) "Metropolitan planning organization" is as defined in Section 72-1-208.5.

(10) "Minor arterial highway" is as defined in Section 72-4-102.5.

(11) "Minor collector road" is as defined in Section 72-4-102.5.

(12) "Principal arterial highway" is as defined in Section 72-4-102.5.

(13) (a) Except as provided in Subsection (13)(b), "public transit" is as defined in Section 17B-2a-802.

(b) "Public transit" does not include a fixed guideway.

(14) "Regionally significant transportation facility" means:

(a) in a county of the first or second class:

(i) a principal arterial highway;

(ii) a minor arterial highway;

(iii) a fixed guideway that:

(A) extends across two or more cities or unincorporated areas; or

(B) is an extension to an existing fixed guideway; or

(iv) an airport of regional significance, as defined by the Transportation Commission **[by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act?]**; or

(b) in a county of the third, fourth, fifth, or sixth class:

(i) a principal arterial highway;

(ii) a minor arterial highway;

(iii) a major collector highway;

(iv) a minor collector road; or

(v) an airport of regional significance, as defined by the Transportation Commission **[by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act?]**.

Issues include:

1. Definition of "local highway of regional significance" - can the definitions in Part 15 and Part 19 be merged?

2. Definition of "qualifying county" in Part 15 needs to be moved out of the definitions to the substantive provisions of this tax. Otherwise, a reader could be confused as to the taxes to which this definition applies.

3. I used the term "fixed guideway" throughout the draft. Other terms, such as "fixed guideway system," had been used. Are you comfortable changing all of the references to the uniform term "fixed guideway"?

4. "Airport of regional significance" is as defined by the Transportation Commission under

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- 115 current law. Should administrative rulemaking language be added?
116
- 117 5. Conflicts in definitions:
118
- 119 a. "Airline" - no obvious conflicts
120
- 121 b. "Airport facility" - no obvious conflicts
122
- 123 c. "Annexation" - definitions merged so no obvious conflicts
124
- 125 d. "Annexing area" - definitions merged so no obvious conflicts
126
- 127 e. "Council of governments" - no obvious conflicts
128
- 129 f. "Fixed guideway" -
130 i. See issue #3.
131 ii. The tax under Part 10 may not be used for a fixed guideway (a fixed guideway is
132 excluded from the definition of "public transit"). Is this the policy you want to adopt? Note
133 that a fixed guideway is also excluded from the definition of "public transit" in Part 15 but the
134 Part 15 tax may expressly be used for a "fixed guideway system."
135
- 136 g. "Local highway of regional significance" - The term is defined differently in Part 15 and
137 Part 19 (see text above). Is there a way to merge these definitions?
138
- 139 h. "Major collector highway" - no obvious conflicts
140
- 141 i. "Metropolitan planning organization" - The term "metropolitan planning organization" is
142 used in Subsections 59-12-502(1)(a)(i)(C)(I), 59-12-1903(1)(b)(i)(B)(I), and
143 59-12-1903(1)(b)(ii)(C)(V)(Aa) but is not defined. It seems like the new defined term will work
144 in these subsections but please double check these references.
145
- 146 j. "Minor arterial highway" - no obvious conflicts
147
- 148 k. "Minor collector road" - no obvious conflicts
149
- 150 l. "Principal arterial highway" - no obvious conflicts
151
- 152 m. "Public transit"
153 i. The tax under Part 5 is called the Public Transit Tax by title. The revenues may be
154 expended to fund a public transportation system in the case of the tax under Section
155 59-12-501 or to fund a fixed guideway, expanded public transportation system, or in certain
156 limited circumstances a project or service related to an airport facility in the case of the tax
157 under Section 59-12-502. However, the terms "public transit," "public transportation system,"
158 and "expanded public transportation system" are not defined for purposes of Part 5. The
159 working group may wish to define "public transportation system" and "expanded public
160 transportation system," The working group may also wish to look at how the term "public
161 transit" is used, including excluding a fixed guideway from "public transit" under Parts 10 and

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15 and the differences, if any, between "public transit," "public transportation system," and "expanded public transportation system."

ii. The term "public transit sales or use tax" is used in Subsection 59-12-501(3). This reference is unclear and should probably cite to a specific statutory reference.

iii. Subsection 59-12-502(10(a)(i) refers to the "public transit district tax authorized by Section 59-12-501" and Section 59-12-503 refers to "a public transit sales and use tax under Sections 59-12-501 and 59-12-502. There should be uniformity in the language referencing the taxes under Part 5.

iv. The definition of "fixed guideway" in Subsection 59-12-1702(4) uses the term "public transit" three times. However, this term is not defined for purposes of Part 17. With the new definition of "public transit" that excludes a fixed guideway, the use of this term in the definition of "fixed guideway" seems problematic. This same issue also appears in Part 19, which adopts the Part 17 definition of "fixed guideway" but then adopts the Part 15 definition of "public transit that excludes a fixed guideway. It may be possible to create a broad definition of "public transit" that includes a fixed guideway and then prohibit revenues collected from certain taxes from being expended for a fixed guideway if the working group decides that those tax revenues should not be expended for a fixed guideway.

n. "Regionally significant transportation facility" - No obvious conflicts

59-12-2203. Limitations on authority to impose a tax under this part.

(1) As provided in this Subsection (1), a local taxing jurisdiction may impose one of the following taxes:

(a) a county, city, or town may impose the tax authorized by Section 59-12-2213 in accordance with Section 59-12-2213; or

(b) a city or town may impose the tax authorized by Section 59-12-2215 in accordance with Section 59-12-2215.

(2) As provided in this Subsection (2), a local taxing jurisdiction may impose one of the following taxes:

(a) a county, city, or town may impose the tax authorized by Section 59-12-2214 in accordance with Section 59-12-2214; or

(b) a county may impose the tax authorized by Section 59-12-2216 in accordance with Section 59-12-2216.

(3) As provided in this Subsection (3), a local taxing jurisdiction may impose one of the following taxes:

(a) a county may impose the tax authorized by Section 59-12-2217 in accordance with Section 59-12-2217; or

(b) a county, city, or town may impose the tax authorized by Section 59-12-2218 in accordance with Section 59-12-2218.

Issues:

1. The Tax Commission has noted that areas smaller than a county, city, or town impose this tax, even though the statute limits the authority to impose the tax to a county, city, or town. The working group may wish to discuss whether this should be allowed, and if so, make the necessary statutory changes.

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2. Should there be additional limits on when a tax may be imposed? (For example, if a city or town imposes the tax under Section 59-12-1001 should the county then be allowed to impose the tax under Section 59-12-501 only in the unincorporated areas, or should the county be prohibited from imposing the tax under Section 59-12-501? In the old Part 15 tax, a county can't impose the Part 15 tax if the county, or any city or town within the county, imposes the tax under Section 59-12-502 (note that currently the tax under Section 59-12-502 and the tax under Part 15 are only imposed by counties). This limitation is not currently in the draft.) The Tax Commission notes that they currently have technology to allow, for example, a county to impose a tax in all areas of the county except where a city or town already imposes the tax. The working group may wish to develop a policy on this issue and address it in statute.

59-12-2204. Transactions that may not be subject to taxation under this part -- Exception for food and food ingredients sold as part of a bundled transaction.

(1) A county, city, or town may not impose a tax under this part on:

(a) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(b) except as provided in Subsection (2), amounts paid or charged for food and food ingredients.

(2) A county, city, or town imposing a tax under this part shall impose the tax on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

59-12-2205. Determination of the location of a transaction.

For purposes of this part, the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

59-12-2206. Administration, collection, and enforcement of a tax under this part -- Transmission of revenues monthly by electronic funds transfer -- Transfer of revenues to a public transit district.

(1) Except as provided in Subsection (2), the commission shall administer, collect, and enforce a tax imposed under this part.

(2) The commission shall administer, collect, and enforce a tax imposed under this part in accordance with:

(a) the same procedures used to administer, collect, and enforce the tax under:

(i) Part 1, Tax Collection; or

(ii) Part 2, Local Sales and Use Tax Act; and

(b) Chapter 1, General Taxation Policies.

(3) A tax under this part is not subject to Subsections 59-12-205(2) through (6).

(4) Subject to Section 59-12-2207 and except as provided in Subsection (5) or another provision of this part, the state treasurer shall transmit revenues collected within a county, city, or town from a sales and use tax under this part to the county, city, or town legislative body monthly by electronic funds transfer.

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256 (5) Subject to Section 59-12-2207, the state treasurer shall transfer revenues collected within
257 a county, city, or town from a sales and use tax under this part directly to a public transit
258 district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act, if the county,
259 city, or town legislative body:

260 (a) provides written notice to the state treasurer requesting the transfer; and

261 (b) designates the public transit district to which the county, city, or town legislative body
262 requests the state treasurer to transfer the revenues.

263

264 **59-12-2207. Commission authority to retain a percentage of tax collected under this**
265 **part -- Deposit of revenues into the Sales and Use Tax Administrative Fees Account --**
266 **Expenditure of revenues.**

267

268 (1) The commission may retain an amount of tax collected under this part of not to exceed
269 the lesser of:

270 (a) 1.50%; or

271 (b) an amount equal to the cost to the commission of administering this part.

272 (2) The commission shall:

273 (a) deposit any amount of tax the commission retains under Subsection (1) into the Sales
274 and Use Tax Administrative Fees Account; and

275 (b) expend the amount of tax described in Subsection (2)(a) as provided in Subsection
276 59-12-206(2).

277

278 **59-12-2208. Legislative body approval requirements -- Voter approval requirements.**

279

280 (1) Before imposing a sales and use tax under this part, a county, city, or town legislative
281 body shall:

282 (a) obtain approval to impose the sales and use tax from a majority of the members of the
283 county, city, or town legislative body; and

284 (b) submit an opinion question to the county's, city's, or town's registered voters voting on the
285 imposition of the sales and use tax so that each registered voter has the opportunity to
286 express the registered voter's opinion on whether a sales and use tax should be imposed
287 under this section.

288 (2) The opinion question required by this section shall state:

289 "Shall (insert the name of the county, city, or town), Utah, be authorized to impose a (insert
290 the tax rate of the sales and use tax) sales and use tax for (list the purposes for which the
291 revenues collected from the sales and use tax shall be expended)?"

292 (3) The election required by this section shall be held:

293 (a) at a regular general election conducted in accordance with the procedures and
294 requirements of Title 20A, Election Code, governing regular general elections; or

295 (b) at a municipal general election conducted in accordance with the procedures and
296 requirements of Section 20A-1-202.

297 (4) Subject to Section 59-12-2209, if a county, city, or town legislative body determines that a
298 majority of the county's, city's, or town's registered voters voting on the imposition of a sales
299 and use tax under this part have voted in favor of the imposition of the sales and use tax in
300 accordance with this section, the county, city, or town legislative body shall impose the sales
301 and use tax.

302 (5) Public funds may not be expended to pay for an election under this section.

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303 (6) If, after imposing a sales and use tax under this part, a county, city, or town legislative
304 body seeks to impose a tax rate for the sales and use tax that exceeds the tax rate stated in
305 the opinion question described in Subsection (2), the county, city, or town legislative body
306 shall:

307 (a) obtain approval to impose the sales and use tax from a majority of the members of the
308 county, city, or town legislative body; and

309 (b) in accordance with the procedures and requirements of this section, submit an opinion
310 question to the county's, city's, or town's registered voters voting on tax rate so that each
311 registered voter has the opportunity to express the registered voter's opinion on whether a
312 sales and use tax should be imposed under this section.

313

314 Issues:

315

316 1. Because notice requirements are already contained in election law provisions, I did not
317 include them in this section.

318

319 2. In Subsection (4), should the language be "shall" or "may"? (If the voters approve the tax,
320 should the county, city, or town legislative body be required to impose the tax or should
321 imposition still be discretionary?

322

323 3. Should Subsection (5) be retained regarding prohibiting public funds from being expended
324 to pay for an election? How do you separate out the cost of the sales and use tax portion of
325 the election?

326

327 **59-12-2209. Enactment, repeal, or change in the rate of a tax under this part --**
328 **Annexation -- Notice.**

329

330 (1) Except as provided in Subsection (3) or (4), if a county, city, or town enacts or repeals a
331 tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take
332 effect:

333 (a) on the first day of a calendar quarter; and

334 (b) after a 90-day period beginning on the date the commission receives notice meeting the
335 requirements of Subsection (2) from the county, city, or town.

336 (2) The notice described in Subsection (1)(b) shall state:

337 (a) that the county, city, or town will enact, repeal, or change the rate of a tax under this part;

338 (b) the statutory authority for the tax described in Subsection (2)(a);

339 (c) the date the enactment, repeal, or change will take effect **[this is a change]**; and

340 (d) if the county, city, or town enacts the tax or changes the rate of the tax described in
341 Subsection (2)(a), the rate of the tax.

342 (3) (a) If the billing period for a transaction begins before the effective date of the enactment
343 of a tax or a tax rate increase under this part, the enactment of the tax or the tax rate
344 increase shall take effect on the first day of the first billing period that begins after the
345 effective date of the enactment of the tax or the tax rate increase. **[this is a change]**

346 (b) If the billing period for a transaction begins before the effective date of the repeal of a tax
347 or a tax rate decrease under this part, the repeal of the tax or the tax rate decrease shall take
348 effect on the first day of the last billing period that began before the effective date of the
349 repeal of the tax or the tax rate decrease. **[this is a change]**

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350 (4) (a) If a tax due under this part on a catalogue sale is computed on the basis of sales and
351 use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax
352 described in Subsection (1) takes effect:

353 (i) on the first day of a calendar quarter; and

354 (ii) beginning 60 days after the effective date of the enactment, repeal, or change in the rate
355 of the tax under Subsection (1).

356 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
357 commission may by rule define the term "catalogue sale."

358 (5) Except as provided in Subsection (7) or (8), if an annexation will result in the enactment,
359 repeal, or change in the rate of a tax under this part for an annexing area, the enactment,
360 repeal, or change shall take effect:

361 (a) on the first day of a calendar quarter; and

362 (b) after a 90-day period beginning on the date the commission receives notice meeting the
363 requirements of Subsection (6) from the county, city, or town that annexes the annexing
364 area.

365 (6) The notice described in Subsection (5) shall state:

366 (a) that the annexation described in Subsection (5) will result in an enactment, repeal, or
367 change in the rate of a tax under this part for the annexing area;

368 (b) the statutory authority for the tax described in Subsection (6)(a);

369 (c) the date the enactment, repeal, or change will take effect **[this is a change]**; and

370 (d) if the annexation will result in the enactment or change in the rate of the tax described in
371 Subsection (6)(a), the rate of the tax. **[this is a change]**

372 (7) (a) If the billing period for a transaction begins before the effective date of the enactment
373 of a tax or a tax rate increase under this part, the enactment of the tax or the tax rate
374 increase shall take effect on the first day of the first billing period that begins after the
375 effective date of the enactment of the tax or the tax rate increase. **[this is a change]**

376 (b) If the billing period for a transaction begins before the effective date of the repeal of a tax
377 or a tax rate decrease under this part, the repeal of the tax or the tax rate decrease shall take
378 effect on the first day of the last billing period that began before the effective date of the
379 repeal of the tax or the tax rate decrease. **[this is a change]**

380 (8) (a) If a tax due under this part on a catalogue sale is computed on the basis of sales and
381 use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax
382 described in Subsection (6) takes effect:

383 (i) on the first day of a calendar quarter; and

384 (ii) beginning 60 days after the effective date of the enactment, repeal, or change in the rate
385 of the tax under Subsection (6).

386 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
387 commission may by rule define the term "catalogue sale."

388

389 Issues: These are primarily technical or conforming changes but please review the changes
390 to make sure they look okay to you.

391

392 **59-12-2210. Seller or certified service provider reliance on commission information.**

393

394 A seller or certified service provider is not liable for failing to collect a tax at a tax rate
395 imposed under this part if the seller's or certified service provider's failure to collect the tax is
396 as a result of the seller's or certified service provider's reliance on incorrect data provided by

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the commission in a database created by the commission:

- (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or
- (2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

59-12-2211. Certified service provider or model 2 seller reliance on commission certified software.

- (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:
 - (a) the certified service provider or model 2 seller relies on software the commission certifies; and
 - (b) the certified service provider's or model 2 seller's failure to collect a tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:
 - (i) provided by the commission; or
 - (ii) in the software the commission certifies.
- (2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.
- (3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:
 - (a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and
 - (b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within ten days after the day on which the certified service provider or model 2 seller receives the notice.
- (4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within ten days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

59-12-2212. Purchaser relief from liability.

- (1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:
 - (i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:
 - (A) on a tax rate;
 - (B) on a boundary;
 - (C) on a taxing jurisdiction; or
 - (D) in the taxability matrix the commission provides in accordance with the agreement; or
 - (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:
 - (A) on a tax rate;

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444 (B) on a boundary;
445 (C) on a taxing jurisdiction; or
446 (D) in the taxability matrix the commission provides in accordance with the agreement.
447 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under
448 Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the
449 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance
450 on incorrect data provided by the commission is as a result of conduct that is:
451 (i) fraudulent;
452 (ii) intentional; or
453 (iii) willful.
454 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not
455 liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part
456 or an underpayment if:
457 (a) the purchaser's seller or certified service provider relies on:
458 (i) incorrect data provided by the commission:
459 (A) on a tax rate;
460 (B) on a boundary; or
461 (C) on a taxing jurisdiction; or
462 (ii) an erroneous classification by the commission:
463 (A) in the taxability matrix the commission provides in accordance with the agreement; and
464 (B) with respect to a term:
465 (I) in the library of definitions; and
466 (II) that is:
467 (Aa) listed as taxable or exempt;
468 (Bb) included in or excluded from "sales price"; or
469 (Cc) included in or excluded from a definition; or
470 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in
471 accordance with Section 59-12-107.1, relies on:
472 (i) incorrect data provided by the commission;
473 (A) on a tax rate;
474 (B) on a boundary; or
475 (C) on a taxing jurisdiction; or
476 (ii) an erroneous classification by the commission:
477 (A) in the taxability matrix the commission provides in accordance with the agreement; and
478 (B) with respect to a term:
479 (I) in the library of definitions; and
480 (II) that is:
481 (Aa) listed as taxable or exempt;
482 (Bb) included in or excluded from "sales price"; or
483 (Cc) included in or excluded from a definition.
484
485 **59-12-2213 (Replaces Section 59-12-501). County, city, or town option sales and use**
486 **tax for a public transportation system -- Base -- Rate -- Exceptions to voter approval**
487 **requirements.**
488
489 (1) Subject to the other provision of this part, a county, city, or town may impose a tax under
490 this section of up to:

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491 (a) for a county, city, or town other than a county, city, or town described in Subsection (1)(b),
492 .25% on the transactions described in Subsection 59-12-103(1) located within the county,
493 city, or town to fund a public transportation system; or
494 (b) for a county, city, or town within which a tax is not imposed under Section 59-12-2216,
495 .30% on the transactions described in Subsection 59-12-103(1) located within the county,
496 city, or town, to fund a public transportation system.
497 (2) Notwithstanding Section 59-12-2208, this section does not require an election in a
498 jurisdiction where voters have previously approved a public transit sales and use tax.
499 (3) Notwithstanding Section 59-12-2208, a county, city, or town is not subject to the voter
500 approval requirements of Section 59-12-2208 if:
501 (a) on December 31, 2007, the county, city, or town imposes a tax of .25% under this
502 section; and
503 (b) on or after January 1, 2008, subject to Subsection (1)(b), the county, city, or town
504 increases the tax rate under this section to a percentage of up to .30%.

505
506 Issues:

- 507
508 1. See issues related to definitions - fixed guideway, public transportation system, expanded
509 public transportation system.
510
511 2. I am not sure what the exception in Subsection (2) means. It may be wise to look at this
512 provision and decide whether it should be modified or repealed.
513
514 3. Global comment: The sections are inconsistent in how they refer to counties, cities, and
515 towns and their duties. For example, the sections use "county," "county governing body,"
516 and "county legislative body." It may be wise to look at how these terms are used to see
517 whether greater consistency is possible.

518
519 **59-12-2214 (Replaces Section 59-12-502). County, city, or town option sales and use**
520 **tax for a fixed guideway, expanded public transportation system, airport facility, or to**
521 **be deposited into the County of the First Class State Highway Projects Fund -- Base --**
522 **Rate -- Exception to voter approval requirements.**

- 523
524 (1) Subject to the other provisions of this part, a county, city, or town may impose a sales and
525 use tax of .25% on the transactions described in Subsection 59-12-103(1) located within the
526 county, city, or town.
527 (2) Subject to Subsection (3), a county, city, or town that imposes a sales and use tax under
528 this section shall expend the revenues collected from the sales and use tax:
529 (a) to fund a fixed guideway;
530 (b) to fund an expanded public transportation system;
531 (c) to fund a project or service related to an airport facility for the portion of the project or
532 service that is performed within the county, city, or town within which the sales and use tax is
533 imposed:
534 (i) for a county that imposes the sales and use tax, if the airport facility is part of the regional
535 transportation plan of the area metropolitan planning organization if a metropolitan planning
536 organization exists for the area; or
537 (ii) for a city or town that imposes the sales and use tax, if:

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- 538 (A) that city or town is located within a county of the second class;
539 (B) that city or town owns or operates the airport facility; and
540 (C) an airline is headquartered in that city or town; or
541 (d) for a combination of Subsections (2)(a) through (c).
542 (3) A county of the first class that imposes a sales and use tax under this section shall
543 expend the revenues collected from the sales and use tax as follows:
544 (a) 80% of the revenues collected from the sales and use tax shall be expended to fund a
545 fixed guideway and expanded public transportation system; and
546 (b) 20% shall be deposited into the County of the First Class State Highway Projects Fund
547 created by Section 72-2-121.
548 (4) Notwithstanding Section 59-12-2208, a county, city, or town is not subject to the voter
549 approval requirements of Section 59-12-2208 if:
550 (a) the county, city, or town imposes a tax under this section on or after July 1, 2009;
551 (b) on July 1, 2009, the county, city, or town imposes a tax under:
552 (i) Section 59-12-2213; or
553 (ii) Section 59-12-2215; and
554 (c) the county, city or town obtained voter approval to impose the tax under:
555 (i) Section 59-12-2213; or
556 (ii) Section 59-12-2215.
557 (5) A county, city, or town that is not subject to the voter approval requirements of Section
558 59-12-2208 shall obtain approval from a majority of the members of the county, city, or town
559 legislative body to impose a tax under this section.

560
561 Issues: See Issue #1 for Section 59-12-2213.

562
563 **59-12-2215 (Replaces Section 59-12-1001). City or town option sales and use tax for**
564 **highways or to fund a system for public transit -- Base -- Rate -- Ordinance**
565 **requirements -- Exceptions to voter approval requirements.**
566

- 567 (1) Subject to the other provisions of this part, a city or town may impose a sales and use tax
568 of .30% on the transactions described in Subsection 59-12-103(1) located within the city or
569 town.
570 (2) A city or town imposing a sales and use tax under this section shall expend the revenues
571 collected from the sales and use tax:
572 (a) for the construction and maintenance of highways under the jurisdiction of the city or town
573 imposing the tax;
574 (b) to fund a system for public transit; or
575 (c) for a combination of Subsections (2)(a) and (b).
576 (3) To impose a sales and use tax under this part, the legislative **[was governing]** body of
577 the city or town shall:
578 (a) pass an ordinance approving the sales and use tax; and
579 (b) subject to Section 59-12-2209, provide an effective date for the sales and use tax in the
580 ordinance described in Subsection (3)(a).
581 (4) (a) Notwithstanding Section 59-12-2208 and except as provided in Subsection (4)(b), a
582 city or town is not subject to the voter approval requirements of Section 59-12-2208 if:
583 (i) on or before January 1, 1996, the city or town imposed a license fee or tax on businesses
584 based on gross receipts pursuant to Section 10-1-203; or

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585 (ii) the city or town:

586 (A) on or before June 30, 2002, obtained voter approval in accordance with this section to
587 impose a sales and use tax under this section for a purpose described in Subsection (2)(a);
588 and

589 (B) on or after July 1, 2002, expends the revenues collected from a sales and use tax under
590 this section for a purpose described in Subsection (2).

591 (b) The exception from the voter approval requirements in Subsection (4)(a) does not apply
592 to a city or town that, on or before January 1, 1996, imposed a license fee or tax on only one
593 class of businesses based on gross receipts pursuant to Section 10-1-203.

594

595 Issues:

596

597 1. The tax under Section 59-12-2213 (Section 59-12-501 tax) may be imposed at a rate of
598 **up to** .30%, while the taxes under Section 59-12-2214 (Section 59-12-502 tax) and Section
599 59-12-2215 (Part 10 tax) are taxes of .25% or .30%. On one hand, greater uniformity among
600 taxing jurisdictions is achieved if the tax is at a flat percentage. On the other hand, it only
601 gives a taxing jurisdiction the authority to impose at the maximum tax rate, not something
602 less. You may wish to consider this policy issue.

603

604 2. The old Part 10 provided that a city or town may impose a sales and use tax of:

605 "(i) beginning on January 1, 1998, and ending on December 31, 2007, .25% on the
606 transactions described in Subsection 59-12-103(1) located within the city or town; or

607 (ii) beginning on January 1, 2008, .30% on the transactions described in Subsection

608 59-12-103(1) located within the city or town." Because the authorization to impose a .25%

609 tax appears to have expired on December 31, 2007, I repealed this as obsolete language. I

610 also repealed the corresponding exception to the voter approval requirements if a city or

611 town increases the tax rate to .30% because if the authority to impose the .25% tax is

612 obsolete this authority would also be obsolete. However, the language isn't entirely clear as

613 to whether a city or town could continue to impose a .25% rate, and it appears that Blanding

614 and Naples impose a .25% tax. Should this language have been repealed? If not, perhaps it
615 should be clarified.

616

617 3. This section uses the term "system for public transit" while Sections 59-12-2213 and
618 59-12-2214 use "public transportation system." See issues noted above relating to the
619 differences, if any, between these terms.

620

621 4. This section requires a city or town to pass an ordinance approving the tax. This
622 ordinance provision is a bit unusual, especially considering that approval by a majority vote of
623 the city or town legislative body is already required to impose the tax. Should this
624 requirement be retained?

625

626 **59-12-2216 (Replaces Section 59-12-1503). County option sales and use tax for**
627 **highways, fixed guideways, or systems for public transit -- Base -- Rate -- Exception to**
628 **voter approval requirements.**

629

630 (1) Subject to the other provisions of this part, a county legislative body may impose a sales
631 and use tax of up to .30% on the transactions described in Subsection 59-12-103(1) within

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the county, including the cities and towns within the county.

(2) Subject to Subsection (3), before obtaining voter approval in accordance with Section 59-12-2208, a county legislative body shall adopt a resolution specifying the percentage of revenues the county will receive from the sales and use tax under this section that will be allocated to fund one or more of the following:

(a) a project or service relating to a fixed guideway for the portion of the project or service that is performed within the county;

(b) a project or service relating to a system for public transit for the portion of the project or service that is performed within the county; or

(c) the following relating to a state highway or a local highway of regional significance within the county:

(i) a project within the county if the project:

(A) begins on or after the day on which a county legislative body imposes a tax under this section; and

(B) involves an environmental study, an improvement, new construction, or a renovation;

(ii) debt service on a project described in Subsection (2)(c)(i); or

(iii) bond issuance costs related to a project described in Subsection (2)(c)(i).

(3) A county legislative body shall in the resolution described in Subsection (2) allocate 100% of the revenues the county will receive from the sales and use tax under this section for one or more of the purposes described in Subsection (2).

(4) Notwithstanding Section 59-12-2208, the opinion question described in Subsection (4)(b) shall state the allocations the county legislative body makes in accordance with this section.

(5) Notwithstanding Section 59-12-2208, a county is not subject to the voter approval requirements of Section 59-12-2208 if:

(a) on December 31, 2007, the county imposes a sales and use tax of .25% under this section; and

(b) on or after January 1, 2008, the county increases the tax rate under this section to up to .30%.

(6) A county, city, or town that is not subject to the voter approval requirements of Section 59-12-2208 shall obtain approval from a majority of the members of the county, city, or town legislative body to increase a tax rate under Subsection (5).

(7) The revenues collected from a sales and use tax under this section shall be:

(a) allocated in accordance with the allocations specified in the resolution under Subsection (2); and

(b) expended as provided in this section.

(8) If a county legislative body allocates revenues collected from a sales and use tax under this section for a project described in Subsection (2)(c)(i), before beginning the state highway project within the county, the county legislative body shall:

(a) obtain approval from the Transportation Commission to complete the project; and

(b) enter into an interlocal agreement established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, with the Department of Transportation to complete the project.

(9) If after a county legislative body imposes a sales and use tax under this section the county legislative body seeks to change an allocation specified in the resolution under Subsection (2), the county legislative body may change the allocation by:

(a) adopting a resolution in accordance with Subsection (2) specifying the percentage of revenues the county will receive from the sales and use tax under this section that will be allocated to fund one or more of the systems or projects described in Subsection (2);

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679 (b) obtaining approval to change the allocation of the sales and use tax by a majority of all of
680 the members of the county legislative body; and

681 (c) subject to Subsection (10):

682 (i) in accordance with Section 59-12-2208, submitting an opinion question to the county's
683 registered voters voting on changing the allocation so that each registered voter has the
684 opportunity to express the registered voter's opinion on whether the allocation should be
685 changed; and

686 (ii) in accordance with Section 59-12-2208, obtaining approval to change the allocation from
687 a majority of the county's registered voters voting on changing the allocation.

688 (10) Notwithstanding Section 59-12-2208, the opinion question required by Subsection
689 (9)(c)(i) shall state the allocations specified in the resolution adopted in accordance with
690 Subsection (9)(a) and approved by the county legislative body in accordance with Subsection
691 (9)(b).

692 (11) Revenues collected from a sales and use tax under this section that a county allocates
693 for a purpose described in Subsection (2)(c) shall be:

694 (a) deposited into the State Highway Projects Within Counties Fund created by Section
695 72-2-121.1; and

696 (b) expended as provided in Section 72-2-121.1.

697

698 Issues:

699

700 1. I repealed the language in Subsection (1) that appeared to be obsolete authorizing a
701 .25% tax "beginning on April 1, 2004, and ending on December 31, 2007." This does not
702 raise the same issues as the tax under Section 59-12-2215 because the authority in this
703 section beginning on January 1, 2008, is to impose a tax of "**up to** .30%" so it is clear that a
704 county could still impose a .25% tax. One option for addressing the ambiguity in Section
705 59-12-2214 is to give authority to impose a tax of "up to .30%" as is done in this section.

706

707 2. See Issue #3 of Section 59-12-2215. Also changed "fixed guideway system" to "fixed
708 guideway." See issue in definition section.

709

710 3. I rewrote this section for simplification and consistency. Please make sure you are
711 comfortable with the new language.

712

713 4. In the old Subsection (2)(b)(ii), the language specifies that the amounts the county
714 allocates does not include the administrative charge the State Tax Commission retains. This
715 provision seems unnecessary because the county never receives this amount in the first
716 place, so I omitted it.

717

718 5. In this section there are special voter approval requirements to change how the tax is
719 allocated (see Subsections (9) and (10)). I retained these special provisions, but conformed
720 them to the policy decisions made for the general voter approval requirements. For example,
721 to change how the tax is allocated under existing law, the election follows the procedures of
722 the Local Government Bonding Act. I changed them to be subject to the general voter
723 approval requirements of Section 59-12-2208 (regular general or municipal general election
724 procedures). Please make sure you are comfortable with these changes.

725

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6. The Part 15 tax had a Subsection 59-12-1503(10) that read "[a] county that imposed a sales and use tax under this section prior to July 1, 2007, may expend revenues allocated in the resolution for the purpose described in [Subsection (2)(c) under the new Section 59-12-2216] on local highway of regional significance projects in addition to or in substitution of state highway projects within the county." The existing Subsection (2)(c) already allows tax revenues to be expended for "the following relating to a state highway or a local highway of regional significance within the county" so it seems redundant and a bit confusing to keep the old Subsection 59-12-1503(10) in the code. If anybody knows what was intended by the old Subsection 59-12-1503(10), it might be helpful to discuss whether any portion of that subsection should be retained. The subsection is not in the current draft.

59-12-2217 (Replaces Section 59-12-1703). County option sales and use tax for transportation -- Base -- Rate -- Written prioritization process -- Approval by county legislative body.

(1) Subject to the other provisions of this part, a county legislative body may impose a sales and use tax of up to .25% on the transactions described in Subsection 59-12-103(1) within the county, including the cities and towns within the county.

(2) Subject to Subsections (3) through (8) and Section 59-12-2207, the revenues collected from a sales and use tax under this section may only be expended for:

(a) a project or service:

(i) relating to a regionally significant transportation facility for the portion of the project or service that is performed within the county;

(ii) for new capacity or congestion mitigation if the project or service is performed within a county:

(A) of the first or second class; or

(B) if that county is part of an area metropolitan planning organization; and

(iii) that is on a priority list:

(A) created by the county's council of governments in accordance with Subsection (7); and

(B) approved by the county legislative body in accordance with Subsection (7);

(b) corridor preservation for a project or service **[I added service]** described in Subsection (2)(a) as provided in Subsection (8); or

(c) debt service or bond issuance costs related to a project or service **[I added service]** described in Subsection (2)(a)(i) or (ii).

(3) If a project or service described in Subsection (2) is for:

(a) a principal arterial highway or a minor arterial highway in a county of the first or second class, that project or service shall be part of the:

(i) county and municipal master plan; and

(ii) (A) statewide long-range plan; or

(B) regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or

(b) a fixed guideway or an airport, that project or service shall be part of the regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area.

(4) In a county of the first or second class, a regionally significant transportation facility project or service described in Subsection (2)(a)(i) shall have a funded year priority designation on a Statewide Transportation Improvement Program and Transportation

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773 Improvement Program if the project or service described in Subsection (2)(a)(i) is:
774 (a) a principal arterial highway;
775 (b) a minor arterial highway; or
776 (c) a major collector highway in a rural area.
777 (5) Of the revenues collected from a tax imposed under this section within a county of the
778 first or second class, 25% or more shall be expended for the purpose described in
779 Subsection (2)(b).
780 (6) (a) As provided in this Subsection (6), a county council of governments shall:
781 (i) develop a written prioritization process for the prioritization of projects to be funded by
782 revenues collected from a sales and use tax under this section;
783 (ii) create a priority list of regionally significant transportation facility projects or services **[I**
784 **added "or services"]** described in Subsection (2)(a)(i) in accordance with Subsection
785 (7); and
786 (iii) present the priority list to the county legislative body for approval in accordance with
787 Subsection (7).
788 (b) The written prioritization process described in Subsection (6)(a)(i) shall include:
789 (i) a definition of the type of projects to which the written prioritization process applies;
790 (ii) subject to Subsection (6)(c), the specification of a weighted criteria system that the county
791 council of governments will use to rank proposed projects and how that weighted criteria
792 system will be used to determine which proposed projects will be prioritized;
793 (iii) the specification of data that is necessary to apply the weighted criteria system **[I**
794 **changed this from "weighted ranking criteria" because that term is not**
795 **used elsewhere in this section]**;
796 (iv) application procedures for a project to be considered for prioritization by the county
797 council of governments; and
798 (v) any other provision the county council of governments considers appropriate.
799 (c) The weighted criteria system described in Subsection (6)(b)(ii) shall include the following:
800 (i) the cost effectiveness of a project;
801 (ii) the degree to which a project will mitigate regional congestion;
802 (iii) the compliance requirements of applicable federal laws or regulations;
803 (iv) the economic impact of a project;
804 (v) the degree to which a project will require tax revenues to fund maintenance and operation
805 expenses; and
806 (vi) any other provision the county council of governments considers appropriate.
807 (d) A county council of governments of a county of the first or second class shall submit the
808 written prioritization process described in Subsection (6)(a)(i) to the Executive Appropriations
809 Committee for approval prior to taking final action on:
810 (i) the written prioritization process; or
811 (ii) any proposed amendment to the written prioritization process.
812 (7) (a) A county council of governments shall use the weighted criteria system adopted in the
813 written prioritization process developed in accordance with Subsection (6) to create a priority
814 list of regionally significant transportation facility projects or services **[I added "or**
815 **services"]** for which revenues collected from a sales and use tax under this section may
816 be expended.
817 (b) Before a county council of governments may finalize a priority list or the funding level of a
818 project, the county council of governments shall conduct a public meeting on:

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- 819 (i) the written prioritization process; and
820 (ii) the merits of the projects that are prioritized as part of the written prioritization process.
821 (c) A county council of governments shall make the weighted criteria system ranking for each
822 project prioritized as part of the written prioritization process publicly available before the
823 public meeting required by Subsection (7)(b) is held.
824 (d) If a county council of governments prioritizes a project over another project with a higher
825 rank under the weighted criteria system, the county council of governments shall:
826 (i) identify the reasons for prioritizing the project over another project with a higher rank under
827 the weighted criteria system at the public meeting required by Subsection (8)(b); and
828 (ii) make the reasons described in Subsection (7)(d)(i) publicly available.
829 (e) Subject to Subsections (7)(f) and (g), after a county council of governments finalizes a
830 priority list in accordance with this Subsection (7), the county council of governments shall:
831 (i) submit the priority list to the county legislative body for approval; and
832 (ii) obtain approval of the priority list from a majority of the members of the county legislative
833 body.
834 (f) A county council of governments may only submit one priority list per calendar year to the
835 county legislative body.
836 (g) A county legislative body may only consider and approve one priority list submitted under
837 Subsection (7)(e) per calendar year.
838 (8) (a) Except as provided in Subsection (8)(b), revenues collected from a sales and use tax
839 under this section that a county allocates for a purpose described in Subsection (2)(b) shall
840 be:
841 (i) deposited in or transferred to the Local Corridor Preservation Fund created by Section
842 72-2-117.5; and
843 (ii) expended as provided in Section 72-2-117.5.
844 (b) In a county of the first class, revenues collected from a sales and use tax under this
845 section that a county allocates for a purpose described in Subsection (2)(b) shall be:
846 (i) deposited in or transferred to the County of the First Class State Highway Projects Fund
847 created by Section 72-2-121; and
848 (ii) expended as provided in Section 72-2-121.

849
850 Issues:

- 851
852 1. I repealed the old Subsection (2)(d) as obsolete language because it addresses the
853 imposition of a tax between April 1, 2007, and December 31, 2007.
854
855 2. The new Subsections (2) through (8) are rewritten. There is ambiguity and some potential
856 conflict in the current law. It may be wise to discuss what the tax revenues are intended to
857 be expended for and how the prioritization processes are intended to function to make sure
858 that the language accomplishes this intent.
859

860 **59-12-2218 (Renumbers and amends Section 59-12-1903). [Imposition of tax]**
861 **County option sales and use tax for airports, highways, and public transit -- Base --**
862 **Rate -- [Expenditure of revenues collected from the tax -- Administration, collection,**
863 **and enforcement of tax by commission -- Administrative fee -- Enactment or repeal of**
864 **tax -- Annexation -- Notice] -- Administration of sales and use tax.**

865 (1) (a) Subject to the other provisions of this [section and except as provided in

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866 [Subsection \(2\)](#) [part](#), the following may impose a sales and use tax under this [part](#) [section](#)
867 :

868 (i) if, on April 1, 2009, a county legislative body of a county of the second class
869 imposes a sales and use tax under this [part](#) [section](#), the county legislative body of the
870 county of the second class may impose the sales and use tax on the transactions:

871 (A) described in Subsection 59-12-103(1); and

872 (B) within the county, including the cities and towns within the county; or

873 (ii) if, on April 1, 2009, a county legislative body of a county of the second class does
874 not impose a sales and use tax under this [part](#) [section](#) :

875 (A) a city legislative body of a city within the county of the second class may impose a
876 sales and use tax under this [part](#) [section](#) on the transactions described in Subsection
877 59-12-103(1) within that city;

878 (B) a town legislative body of a town within the county of the second class may
879 impose a sales and use tax under this [part](#) [section](#) on the transactions described in
880 Subsection 59-12-103(1) within that town; and

881 (C) the county legislative body of the county of the second class may impose a sales
882 and use tax on the transactions described in Subsection 59-12-103(1):

883 (I) within the county, including the cities and towns within the county, if on the date the
884 county legislative body provides the notice described in [Subsection \(7\)\(a\)](#) [Section](#)
885 [59-12-2209](#) to the commission stating that the county will enact a [sales and use](#) tax under
886 this [part](#) [section](#), no city or town within that county:

887 (Aa) imposes a [sales and use](#) tax under this [part](#) [section](#); or

888 (Bb) has provided the notice described in [Subsection \(7\)\(a\)](#) [Section 59-12-2209](#) to
889 the commission stating that the city or town will enact a [sales and use](#) tax under this [part](#)
890 [section](#); or

891 (II) within the county, except for within a city or town within that county, if, on the date
892 the county legislative body provides the notice described in [Subsection \(7\)\(a\)](#) [Section](#)
893 [59-12-2209](#) to the commission stating that the county will enact a [sales and use](#) tax under
894 this [part](#) [section](#), that city or town:

895 (Aa) imposes a [sales and use](#) tax under this [part](#) [section](#); or

896 (Bb) has provided the notice described in [Subsection \(7\)\(a\)](#) [Section 59-12-2209](#) to
897 the commission stating that the city or town will enact a [sales and use](#) tax under this [part](#)
898 [section](#).

899 (b) For purposes of Subsection (1)(a), a county, city, or town legislative body that
900 imposes a [sales and use](#) tax under this [part](#) [section](#) may impose the tax at a rate of:

901 (i) .10%, to be:

902 (A) as determined by the county, city, or town legislative body, deposited as provided
903 in Subsection [\(4\)](#) [\(3\)](#) (c)(i) into the County of the Second Class State Highway Projects
904 Fund created by Section 72-2-121.2 and expended as provided in Section 72-2-121.2;

905 (B) as determined by the county, city, or town legislative body, expended for a project
906 or service relating to an airport facility for the portion of the project or service that is
907 performed within the county, city, or town within which the tax is imposed:

908 (I) for a county legislative body that imposes the [sales and use](#) tax, if that airport
909 facility is part of the regional transportation plan of the area metropolitan planning
910 organization if a metropolitan planning organization exists for the area; or

911 (II) for a city or town legislative body that imposes the [sales and use](#) tax, if:

912 (Aa) that city or town owns or operates the airport facility; and

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913 (Bb) an airline is headquartered in that city or town; or
914 (C) as determined by the county, city, or town legislative body, deposited or expended
915 for a combination of Subsections (1)(b)(i)(A) and (B); or
916 (ii) subject to Subsection (1)(c), .25%, to be expended as follows:
917 (A) .10% to be deposited as provided in Subsection ~~[(4)]~~ (3) (c)(i) into the County of
918 the Second Class State Highway Projects Fund created by Section 72-2-121.2 and
919 expended as provided in Section 72-2-121.2;
920 (B) .05%, to be deposited as provided in Subsection ~~[(4)]~~ (3) (c)(ii) into the Local
921 Transportation Corridor Preservation Fund created by Section 72-2-117.5 and expended and
922 distributed in accordance with Section 72-2-117.5; and
923 (C) as determined by the county, city, or town legislative body, .10% to be:
924 (I) deposited as provided in Subsection ~~[(4)]~~ (3) (c)(i) into the County of the Second
925 Class State Highway Projects Fund created by Section 72-2-121.2 and expended as
926 provided in Section 72-2-121.2;
927 (II) expended for:
928 (Aa) a state highway designated under Title 72, Chapter 4, Part 1, Designation of
929 State Highways Act;
930 (Bb) a local highway of regional significance; or
931 (Cc) a combination of Subsections (1)(b)(ii)(C)(II)(Aa) and (Bb);
932 (III) expended for a project or service relating to a system for public transit for the
933 portion of the project or service that is performed within the county, city, or town within which
934 the sales and use tax is imposed;
935 (IV) expended for a project or service relating to a fixed guideway for the portion of
936 the project or service that is performed within the county, city, or town within which the sales
937 and use tax is imposed;
938 (V) expended for a project or service relating to an airport facility for the portion of the
939 project or service that is performed within the county, city, or town within which the sales and
940 use tax is imposed:
941 (Aa) for a county legislative body that imposes the sales and use tax, if that airport
942 facility is part of the regional transportation plan of the area metropolitan planning
943 organization if a metropolitan planning organization exists for the area; or
944 (Bb) for a city or town legislative body that imposes the sales and use tax, if:
945 (Ii) that city or town owns or operates the airport facility; and
946 (IiIi) an airline is headquartered in that city or town; or
947 (VI) deposited or expended for a combination of Subsections (1)(b)(ii)(C)(I) through
948 (V).
949 (c) (i) Subject to the other provisions of this Subsection (1)(c), a city or town within
950 which a sales and use tax is imposed at the tax rate described in Subsection (1)(b)(ii) may:
951 (A) expend the revenues in accordance with Subsection (1)(b)(ii); or
952 (B) expend the revenues in accordance with Subsections (1)(c)(ii) through (iv) if:
953 (I) that city or town owns or operates an airport facility; and
954 (II) an airline is headquartered in that city or town.
955 (ii) ~~(A) [If a city or town within which a tax is imposed at the tax rate described in~~
956 ~~Subsection (1)(b)(ii) owns or operates an airport facility at which an airline is headquartered,~~
957 ~~the] A~~ city or town legislative body of a city or town within which a sales and use tax is
958 imposed at the tax rate described in Subsection (1)(b)(ii) may expend the revenues collected
959 from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate

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960 of .25% for a purpose described in Subsection (1)(c)(ii)(B) if :

961 (I) that city or town owns or operates an airport facility; and

962 (II) an airline is headquartered in that city or town.

963 (B) A city or town described in Subsection (1)(c)(ii)(A) may expend the revenues

964 collected from a tax rate of greater than .10% but not to exceed the revenues collected from

965 a tax rate of .25% for:

966 ~~[(A)]~~ (I) a project or service relating to the airport facility; and

967 ~~[(B)]~~ (II) the portion of the project or service that is performed within the city or town

968 imposing the sales and use tax.

969 (iii) If a city or town legislative body described in Subsection (1)(c)(ii) (A) determines
970 to expend the revenues collected from a tax rate of greater than .10% but not to exceed the
971 revenues collected from a tax rate of .25% for a project or service relating to an airport facility
972 as allowed by Subsection (1)(c)(ii), any remaining revenues that are collected from the sales
973 and use tax imposed at the tax rate described in Subsection (1)(b)(ii) that are not expended
974 for the project or service relating to an airport facility as allowed by Subsection (1)(c)(ii) shall
975 be expended as follows:

976 (A) 75% of the remaining revenues shall be deposited as provided in Subsection ~~[(4)]~~
977 (3) (d) into the County of the Second Class State Highway Projects Fund created by Section
978 72-2-121.2 and expended as provided in Section 72-2-121.2; and

979 (B) 25% of the remaining revenues shall be deposited as provided in Subsection ~~[(4)]~~
980 (3) (d) into the Local Transportation Corridor Preservation Fund created by Section
981 72-2-117.5 and expended and distributed in accordance with Section 72-2-117.5.

982 (iv) A city or town legislative body that expends the revenues collected from a sales
983 and use tax imposed at the tax rate described in Subsection (1)(b)(ii) in accordance with
984 Subsections (1)(c)(ii) and (iii):

985 (A) shall, on or before the date the city or town legislative body provides the notice
986 described in ~~[Subsection (7)(a)]~~ Section 59-12-2209 to the commission stating that the city
987 or town will enact a sales and use tax under this ~~[part]~~ section :

988 (I) determine the tax rate:

989 (Aa) the collections from which the city or town legislative body will expend for a
990 project or service relating to an airport facility as allowed by Subsection (1)(c)(ii); and

991 (Bb) at a percentage that is greater than .10% but does not exceed .25%; and

992 (II) notify the commission in writing of the tax rate the city or town legislative body
993 determines in accordance with Subsection (1)(c)(iv)(A)(I);

994 (B) shall, on or before the April 1 immediately following the date the city or town
995 legislative body provides the notice described in Subsection (1)(c)(iv)(A) to the commission:

996 (I) determine the tax rate:

997 (Aa) the collections from which the city or town legislative body will expend for a
998 project or service relating to an airport facility as allowed by Subsection (1)(c)(ii); and

999 (Bb) at a percentage that is greater than .10% but does not exceed .25%; and

1000 (II) notify the commission in writing of the tax rate the city or town legislative body
1001 determines in accordance with Subsection (1)(c)(iv)(B)(I);

1002 (C) shall, on or before April 1 of each year after the April 1 described in Subsection
1003 (1)(c)(iv)(B):

1004 (I) determine the tax rate:

1005 (Aa) the collections from which the city or town legislative body will expend for a
1006 project or service relating to an airport facility as allowed by Subsection (1)(c)(ii); and

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1007 (Bb) at a percentage that is greater than .10% but does not exceed .25%; and
1008 (II) notify the commission in writing of the tax rate the city or town legislative body
1009 determines in accordance with Subsection (1)(c)(iv)(C)(I); and

1010 (D) may not change the tax rate the city or town legislative body determines in
1011 accordance with Subsections (1)(c)(iv)(A) through (C) more frequently than as prescribed by
1012 Subsections (1)(c)(iv)(A) through (C).

1013 ~~[(d) If a county legislative body imposes a tax under this part, regardless of whether~~
1014 ~~the tax under this part is imposed within all of the cities and towns within the county, the~~
1015 ~~county legislative body may not impose a tax under Part 17, County Option Sales and Use~~
1016 ~~Tax for Transportation Act.~~

1017 ~~_____ (e) For purposes of this Subsection (1), the location of a transaction shall be~~
1018 ~~determined in accordance with Sections 59-12-211 through 59-12-215.~~

1019 ~~_____ (2) (a) A county, city, or town legislative body may not impose a tax under this part on:~~

1020 ~~_____ (i) the sales and uses described in Section 59-12-104 to the extent the sales and~~
1021 ~~uses are exempt from taxation under Section 59-12-104; or~~

1022 ~~_____ (ii) except as provided in Subsection (2)(b), amounts paid or charged for food and~~
1023 ~~food ingredients.~~

1024 ~~_____ (b) A county, city, or town legislative body imposing a tax under this part shall impose~~
1025 ~~the tax on amounts paid or charged for food and food ingredients if the food and food~~
1026 ~~ingredients are sold as part of a bundled transaction attributable to food and food ingredients~~
1027 ~~and tangible personal property other than food and food ingredients.]~~

1028 ~~[(3)] (2) [(a) To impose a tax under this part, a county, city, or town legislative body~~
1029 ~~shall obtain approval from a majority of the members of the county, city, or town legislative~~
1030 ~~body.~~

1031 ~~_____ (b)]~~ Before a city or town legislative body may impose a sales and use tax under this
1032 [part] section, the city or town legislative body shall provide a copy of the notice described in
1033 [Subsection (7)(a)] Section 59-12-2209 that the city or town legislative body provides to the
1034 commission:

1035 (i) to the county legislative body within which the city or town is located; and

1036 (ii) at the same time as the city or town legislative body provides the notice to the
1037 commission.

1038 ~~[(4)] (3) (a) Subject to Subsections [(4)] (3) (b) through [(f)] (e) and [except as~~
1039 ~~provided in Subsection (6)] Section 59-12-2207, the commission shall transmit revenues~~
1040 ~~collected within a county, city, or town from a tax under this part that will be expended for a~~
1041 ~~purpose described in Subsection (1)(b)(i)(B) or Subsections (1)(b)(ii)(C)(II) through (V):~~

1042 ~~_____ (i) to the county, city, or town legislative body[:]~~ in accordance with Section 59-12-
1043 2206.

1044 ~~[(ii) monthly; and~~

1045 ~~_____ (iii) by electronic funds transfer.]~~

1046 ~~[(b) Except as provided in Subsection (6), the commission shall transfer the revenues~~
1047 ~~described in Subsection (4)(a) directly to a public transit district organized under Title 17B,~~
1048 ~~Chapter 2a, Part 8, Public Transit District Act, if the county, city, or town legislative body:~~

1049 ~~_____ (i) provides written notice to the commission requesting the transfer; and~~

1050 ~~_____ (ii) designates the public transit district to which the county, city, or town legislative~~
1051 ~~body requests the commission to transfer the revenues described in Subsection (4)(a).]~~

1052 ~~[(e)] (b)~~ Except as provided in Subsection ~~[(4)(d) or (6)] (3)(c) and subject to Section~~
1053 59-12-2207, the commission shall deposit revenues collected within a county, city, or town

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1054 from a sales and use tax under this [part] section that:

1055 (i) are required to be expended for a purpose described in Subsection (1)(b)(ii)(A) into

1056 the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2;

1057 (ii) are required to be expended for a purpose described in Subsection (1)(b)(ii)(B)

1058 into the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5; or

1059 (iii) a county, city, or town legislative body determines to expend for a purpose

1060 described in Subsection (1)(b)(i)(A) or (1)(b)(ii)(C)(I) into the County of the Second Class

1061 State Highway Projects Fund created by Section 72-2-121.2 if the county, city, or town

1062 legislative body provides written notice to the commission requesting the deposit.

1063 ~~[(d)]~~ (c) Subject to Subsection ~~[(4)(e) or (f)]~~ (3)(d) or (e), if a city or town legislative

1064 body provides notice to the commission in accordance with Subsection (1)(c)(iv), the

1065 commission shall:

1066 (i) transmit the revenues collected from the tax rate stated on the notice to the city or

1067 town legislative body:

1068 ~~— (A)]~~ monthly; ~~and~~

1069 ~~— (B)]~~ by electronic funds transfer; and

1070 (ii) deposit any remaining revenues described in Subsection (1)(c)(iii) in accordance

1071 with Subsection (1)(c)(iii).

1072 ~~[(e)]~~ (d) (i) If a city or town legislative body provides the notice described in

1073 Subsection (1)(c)(iv)(A) to the commission, the commission shall transmit or deposit the

1074 revenues collected from the sales and use tax:

1075 (A) in accordance with Subsection ~~[(4)(d)]~~ (3)(c);

1076 (B) beginning on the date the city or town legislative body enacts the sales and use

1077 tax; and

1078 (C) ending on the earlier of:

1079 (I) the June 30 immediately following the date the city or town legislative body

1080 provides the notice described in Subsection (1)(c)(iv)(B) to the commission; or

1081 (II) the date the city or town legislative body repeals the sales and use tax.

1082 (ii) If a city or town legislative body provides the notice described in Subsection

1083 (1)(c)(iv)(B) or (C) to the commission, the commission shall transmit or deposit the revenues

1084 collected from the sales and use tax:

1085 (A) in accordance with Subsection ~~[(4)(d)]~~ (3)(c);

1086 (B) beginning on the July 1 immediately following the date the city or town legislative

1087 body provides the notice described in Subsection (1)(c)(iv)(B) or (C) to the commission; and

1088 (C) ending on the earlier of:

1089 (I) the June 30 of the year after the date the city or town legislative body provides the

1090 notice described in Subsection (1)(c)(iv)(B) or (C) to the commission; or

1091 (II) the date the city or town legislative body repeals the sales and use tax.

1092 ~~[(f)]~~ (e) (i) If a city or town legislative body that is required to provide the notice

1093 described in Subsection (1)(c)(iv)(A) does not provide the notice described in Subsection

1094 (1)(c)(iv)(A) to the commission on or before the date required by Subsection (1)(c)(iv) for

1095 providing the notice, the commission shall transmit, transfer, or deposit the revenues

1096 collected from the sales and use tax within the city or town in accordance with [Subsections

1097 (4)(a) through (c)] Subsection (3)(b).

1098 (ii) If a city or town legislative body that is required to provide the notice described in

1099 Subsection (1)(c)(iv)(B) or (C) does not provide the notice described in Subsection

1100 (1)(c)(iv)(B) or (C) to the commission on or before the date required by Subsection (1)(c)(iv)

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1101 for providing the notice, the commission shall transmit or deposit the revenues collected from
1102 the sales and use tax within the city or town in accordance with:

1103 (A) Subsection ~~[(4)(d)]~~ (3)(c); and

1104 (B) the most recent notice the commission received from the city or town legislative
1105 body under Subsection (1)(c)(iv).

1106 ~~[(5)(a) Except as provided in Subsection (5)(b), the commission shall administer,~~
1107 ~~collect, and enforce a tax under this part in accordance with:~~

1108 ~~—— (i) the same procedures used to administer, collect, and enforce the tax under:~~

1109 ~~—— (A) Part 1, Tax Collection; or~~

1110 ~~—— (B) Part 2, Local Sales and Use Tax Act; and~~

1111 ~~—— (ii) Chapter 1, General Taxation Policies:~~

1112 ~~—— (b) A tax under this part is not subject to Subsections 59-12-205(2) through (6):~~

1113 ~~—— (6)(a) The commission may retain an amount of tax collected under this part of not to~~
1114 ~~exceed the lesser of:~~

1115 ~~—— (i) 1.50%; or~~

1116 ~~—— (ii) an amount equal to the cost to the commission of administering this part.~~

1117 ~~—— (b) Any amount the commission retains under Subsection (6)(a) shall be:~~

1118 ~~—— (i) deposited into the Sales and Use Tax Administrative Fees Account; and~~

1119 ~~—— (ii) used as provided in Subsection 59-12-206(2):~~

1120 ~~—— (7)(a)(i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1,~~
1121 ~~2009, a county, city, or town enacts or repeals a tax or changes the rate of a tax under this~~
1122 ~~part, the enactment, repeal, or change shall take effect:~~

1123 ~~—— (A) on the first day of a calendar quarter; and~~

1124 ~~—— (B) after a 90-day period beginning on the date the commission receives notice~~
1125 ~~meeting the requirements of Subsection (7)(a)(ii) from the county, city, or town:~~

1126 ~~—— (ii) The notice described in Subsection (7)(a)(i)(B) shall state:~~

1127 ~~—— (A) that the county, city, or town will enact, repeal, or change the rate of a tax under~~
1128 ~~this part;~~

1129 ~~—— (B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);~~

1130 ~~—— (C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and~~

1131 ~~—— (D) if the county, city, or town enacts the tax or changes the rate of the tax described~~
1132 ~~in Subsection (7)(a)(ii)(A), the rate of the tax:~~

1133 ~~—— (b)(i) If the billing period for a transaction begins before the effective date of the~~
1134 ~~enactment of the tax or the tax rate increase under Subsection (1), the enactment of a tax or~~
1135 ~~a tax rate increase shall take effect on the first day of the first billing period that begins after~~
1136 ~~the effective date of the enactment of the tax or the tax rate increase:~~

1137 ~~—— (ii) If the billing period for a transaction begins before the effective date of the repeal~~
1138 ~~of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax~~
1139 ~~rate decrease shall take effect on the first day of the last billing period that began before the~~
1140 ~~effective date of the repeal of the tax or the tax rate decrease:~~

1141 ~~—— (c)(i) If a tax due under this part on a catalogue sale is computed on the basis of~~
1142 ~~sales and use tax rates published in the catalogue, an enactment, repeal, or change in the~~
1143 ~~rate of a tax described in Subsection (7)(a)(i) takes effect:~~

1144 ~~—— (A) on the first day of a calendar quarter; and~~

1145 ~~—— (B) beginning 60 days after the effective date of the enactment, repeal, or change in~~
1146 ~~the rate of the tax under Subsection (7)(a)(i):~~

1147 ~~—— (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the~~

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~~commission may by rule define the term "catalogue sale."~~
~~—— (d) (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:~~
~~—— (A) on the first day of a calendar quarter; and~~
~~—— (B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (7)(d)(ii) from the county, city, or town that annexes the annexing area.~~
~~—— (ii) The notice described in Subsection (7)(d)(i)(B) shall state:~~
~~—— (A) that the annexation described in Subsection (7)(d)(i)(B) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;~~
~~—— (B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);~~
~~—— (C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and~~
~~—— (D) if the county, city, or town enacts the tax or changes the rate of the tax described in Subsection (7)(d)(ii)(A), the rate of the tax.~~
~~—— (e) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or a tax rate increase under Subsection (1), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.~~
~~—— (ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.~~
~~—— (f) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (7)(d)(i) takes effect:~~
~~—— (A) on the first day of a calendar quarter; and~~
~~—— (B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate under Subsection (7)(d)(i):~~
~~—— (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."]~~

Issues:

1. Because this section is so new and has such unique provisions, there are fewer changes to this section so I chose to renumber and amend rather than repeal and reenact.
2. Subsection (1)(c)(ii) is rewritten because the current language requires that to expend tax revenues for an airport project or service, a city or town has to own or operate the airport facility and the airport facility has to be headquartered in the airport. In all other references in the section, it is clear that the airport facility has to be headquartered in the city or town, not the airport. This language corrects this provision to be consistent with the other references in this section.